

### REMARKS

Favorable reconsideration of this application, in light of the following discussion, is respectfully requested. After entry of the foregoing amendment, Claims 13-17 remain pending in the present application. No new matter has been added.<sup>1</sup>

By way of summary, the Office Action presented the following issues: Claims 13 and 16-17 stand rejected under 35 U.S.C. § 112, second paragraph, as indefinite; Claims 13 and 16-17 stand rejected under 35 U.S.C. § 112, second paragraph, as being incomplete for omitting essential steps; Claim 17 stands rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter; Claims 13-14 and 16-17 stand rejected under 35 U.S.C. § 103(a) as obvious over Applicants' Background Art section (hereinafter "the Background Art") in view of Vega et al. (U.S. Patent No. 6,282,407 B1, hereinafter "Vega"), Kamerman et al. (U.S. Patent No. 6,067,291, hereinafter "Kamerman"), and Ikegami (U.S. Patent No. 6,393,032 B1); and Claim 15 stands rejected under 35 U.S.C. § 103(a) as obvious over the Background Art in view of Vega, Kamerman, Ikegami, and Zhou et al. (U.S. Patent No. 6,127,979, hereinafter "Zhou").

### ABSTRACT

Applicants have deleted the Abstract and submit herewith a new Abstract. No new matter has been added.

### REJECTIONS UNDER 35 U.S.C. § 112

Claims 13 and 16-17 stand rejected under 35 U.S.C. § 112, second paragraph, as indefinite. Claims 13 and 16-17 stand rejected under 35 U.S.C. § 112, second paragraph, as

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<sup>1</sup> Because the amendments to independent Claims 16-17 address cosmetic matters of form and otherwise adopts examiner suggestions, the amendments clearly require only a cursory review by the examiner consistent with MPEP § 714.13 II.

being incomplete for omitting essential steps. Applicants respectfully traverse those rejections.

Claim 13 recites a communication device, including, in part,

means for generating an RF (radio frequency) signal;

means for modulating the RF signal at one of a plurality of transfer rates, and for modulating a received RF signal of another device by load modulation; [and]

means for demodulating the RF signal load modulated by the another device, and for demodulating a second RF signal provided to the communication device from the another device . . . .

In rejecting Claim 13, the Office asserted, “It is not understood which RF signal is being demodulated since [an] RF signal was never load modulated. A received RF signal was load modulated which is different from an RF signal as currently recited in claim 13.”<sup>2</sup>

Applicants agree that the “received RF signal” is different from “an RF . . . signal” as recited in Claim 13. It should therefore be clear that the RF signal referred to in the recitation “means for demodulating the RF signal” finds antecedent basis in the “means for generating an RF (radio frequency) signal” and the “means for modulating the RF signal.”

Further, with regard to the assertion that an “RF signal was never load modulated,” it is submitted that Claim 13 is directed to a communication device and that the claim clarifies that the RF signal was load modulated by the another device. Thus, although Applicants agree that the claim does not require that the RF signal be load modulated by the communication device, Applicants submit that the claim is not rendered indefinite for that reason.

Further, the Office asserted that the function of “demodulating a second RF signal” omits an essential step of modulating the second RF signal from the another device.<sup>3</sup> Even

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<sup>2</sup> Office Action at 2.

<sup>3</sup> Id.

assuming that the modulation of the second RF signal is essential, Applicants are at a loss for understanding why a claim directed to “a communication device” is incomplete for omitting steps asserted to be essential to “another device.”

Accordingly, Applicants respectfully request the withdrawal of the rejections of Claim 13 under 35 U.S.C. § 112, second paragraph.

Further, the Office merely offered a conclusory statement that similar problems exist with Claims 16-17.<sup>4</sup> It is believed that Claims 16-17 are sufficiently definite for reasons similar to those set forth above with regard to Claim 13.

#### REJECTIONS UNDER 35 U.S.C. § 101

Independent Claim 17 stands rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter. Applicants have amended Claim 17 to include the word “tangible,” as suggested by Examiner Divecha.<sup>5</sup> Applicants respectfully request the withdrawal of the rejection of Claim 17 under 35 U.S.C. § 101.

#### REJECTIONS UNDER 35 U.S.C. § 103

Claims 13-14 and 16-17 stand rejected under 35 U.S.C. § 103(a) as obvious over the Background Art in view of Vega, Kamerman, and Ikegami. Because the Office has failed to establish a *prima facie* case of obviousness with regard to the features of independent Claims 13 and 16-17, Applicants respectfully traverse that rejection.

Independent Claim 13 recites a communication device, including, in part,

means for detecting the second RF signal of the another device, the detecting being at a level of a first threshold or greater,

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<sup>4</sup> Id.

<sup>5</sup> Id. at 3.

wherein . . . when the another device receives an indication of the active mode, the means for detecting receives the data of the another device at a level of a second threshold or higher, the second threshold being higher than the first threshold.

Applicants respectfully submit that the Background Art, Vega, Kamerman, and Ikegami fail to disclose or suggest those features.

The Office conceded that the Background Art and Vega fail to disclose that “when the another device receives an indication of the active mode, the means for detecting receives the data of the another device at a level of a second threshold or higher, the second threshold being higher than the first threshold.”<sup>6</sup>

To remedy that deficiency, the Office relied on Kamerman. Kamerman concerns a station employing a carrier detect threshold and a defer threshold.<sup>7</sup> Kamerman shows in Figure 4 “the situation where the defer threshold is set at a level below--more sensitive than--the carrier detect threshold . . . .”<sup>8</sup> Further, Kamerman shows in Figure 4 that an observed carrier signal varies with a distance from an access point.

That is, Kamerman merely describes reception of data at a carrier detect threshold based on a distance from an access point. Kamerman fails to disclose to one having ordinary skill in the art that the reception of data at the carrier detect threshold is based on the access point receiving an indication of an active mode. Kamerman clearly does not disclose or suggest that “when the another device receives an indication of the active mode, the means for detecting receives the data of the another device at a level of a second threshold or higher, the second threshold being higher than the first threshold,” as recited in Claim 13.

Ikegami concerns a method of driving a wireless LAN system. The Office does not rely upon Ikegami for teaching or suggesting that “when the another device receives an indication of the active mode, the means for detecting receives the data of the another device

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<sup>6</sup> Id. at 5-6.

<sup>7</sup> Kamerman, col. 2, ll. 46-56.

<sup>8</sup> Id., col. 5, ll. 26-29.

at a level of a second threshold or higher, the second threshold being higher than the first threshold,” as recited in Claim 13. It is respectfully submitted that Ikegami is silent regarding those features.

Thus, the Background Art, Vega, Kamerman, and Ikegami, taken alone or in combination, fail to disclose or suggest that “when the another device receives an indication of the active mode, the means for detecting receives the data of the another device at a level of a second threshold or higher, the second threshold being higher than the first threshold,” as recited in Claim 13.

It is therefore submitted that independent Claim 13 (and all associated dependent claims) patentably distinguishes over any proper combination of the Background Art, Vega, Kamerman, and Ikegami for at least the foregoing reasons.

Further, it is respectfully submitted that independent Claims 16-17 are allowable for at least the reasons discussed above with regard to Claim 13.

Additionally, because the Office has failed to establish a *prima facie* case of obviousness with regard to the features of the independent claims, it will be appreciated that Applicants are under no obligation to submit evidence of non-obviousness in accordance with MPEP § 2142.

However, should the above points be found unpersuasive, Applicants respectfully request that the Office provide an explanation by Advisory Action pursuant to MPEP § 714.13 specifically rebutting the points included herein for purposes of facilitating the appeal process.

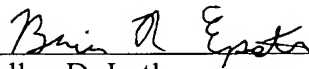
With regard to dependent Claim 15, it is respectfully submitted that Zhou fails to remedy the above-noted deficiencies in the Background Art, Vega, Kamerman, and Ikegami with regard to independent Claim 13. Thus, it is respectfully submitted that the rejection of Claim 15 is moot.

CONCLUSION

Consequently, in view of the present amendment and in light of the foregoing comments, it is respectfully submitted that the present application is patentably distinguished over the cited art and is in condition for allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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